

REMARKS

The above-captioned patent application has been carefully reviewed in light of the final Official Action to which this Amendment is responsive. Claims 13-19 have been amended and new Claim 20 has been added. It is believed that no new matter has been added. A Request for Continued Examination accompanies this Amendment which is being filed as a Preliminary Amendment herewith.

Claims 13-19 are pending. All of the pending claims have been rejected based upon prior art grounds. Applicant respectfully requests reconsideration based on the amended and new claims and the following discussion.

Applicant would like to gratefully acknowledge the telephonic interview granted to Applicant's representative, Peter J. Bilinski, by Examiner A. Phi Dieu Tran on March 26, 2004. The points of the interview are included in the following discussion.

Prior to discussing the prior art rejections, Applicant would again like to briefly discuss the novel aspects of the present invention. Applicant has devised a system for a horizontally level terrace floor used in exterior (e.g., outdoor) environments, such as a non-level roof surface, that is subjected to weather-related events, such as rain and snow.

The system includes a plurality of spaced apart pedestals having bottom surfaces that are adhered to the non-level or irregular roof surface, each of the pedestals being fabricated from a heat shearable-foam material wherein the top or the pedestals having been sheared to produce upper surfaces that are horizontally level. A plurality of flat grate panels are laid onto the upper surfaces of the pedestals. Each of the flat grate panels comprise a continuous series of very small perforations that define a continuous load bearing subfloor containing the perforations is established when the grate panels are placed onto the top surface of the pedestals.

The system further includes a plurality of paving bricks that are arranged atop the perforated grate panels defining the subfloor. The paving bricks are each fabricated from a weather impervious material and are selectively arranged atop the

grate panels in interlocking relation with one another wherein the bottom surface of each paving brick is placed onto the top surface of the grate panels. The small perforations arranged continuously over the panels support the weight of each paving brick and further the presence of the subfloor defined by the grate panels provides a surface onto which the bricks can be selectively arranged in a varied number of interlocking arrangements, at the user's discretion, for decorative or other purposes. Discontinuous seam lines are formed by the intersection of bricks in each interlocking arrangement in which at least some of the seam lines terminate at a side wall of an interlocking paving brick. See Fig. 4 which further illustrates the placement of paving bricks onto the grate panels and the ability to shift the bricks into more than one arrangement, as needed or desired.

Turning to the prior art rejections, the Examiner has rejected Claim 13 under 35 USC §103(a) as being unpatentable over Pawlowski (GB 876117) in view of Chen (U.S. Patent No. 5,904,015). Applicant respectfully traverses the rejections.

First and in order to establish a *prima facie* obviousness rejection under the Statute, each and every claimed limitation must be found, either singly or in combination, in the cited prior art. Those limitations that are not found in the prior art must be notoriously well known to one of sufficient skill in the field of the invention.

Pawlowski describes an elevated sectional floor used for in-building use, and more particularly for television stations and the like (see col. 1, lines 15-39) to permit cables and power supplies to be stored there-beneath.

The floor described by this reference includes a series of lugs 48 (that are provided at the tops of legs 46, each of the lugs being provided on corners of a frame 44 having a number of openings 54 that accommodate floor panels 56.

There are a number of differences between this cited structure and that of the present invention. First, the present invention utilizes a set of grate panels that are continuously formed as a mesh or network series of small perforations as a subfloor in which the paving bricks are supported by a plurality of the perforations. The latter distinction has already been acknowledged by the Examiner.

Second, the floor system utilized by Pawlowski is not designed for use as an exterior floor system for a deck or terrace as is the present invention. Instead, the floor system described is specifically tailored for an interior environment and more specifically for conveniently storing computer cables and the like beneath the upper floor. The tiles and the floor used are not designed from a weather impervious material nor is there any teaching or suggestion of providing a floor made in this manner.

Third, the floor panels 56 of the Pawlowski reference are designed to assume a single unitary configuration in which each of the floor panels are mounted or disposed within a single perforation or opening of the frame member. In essence, the tiles do not actually in their entirety sit atop the subfloor since a portion of the tiles are confined within the perforations of the frame member. Moreover, the paving bricks of the present invention, however, can be formed in literally an infinite number of different interlocking arrangements. In each varied arrangement selected by the user, at least one discontinuous seam line that is formed between adjacent bricks are terminated at either end by a side wall of an adjacent brick. See Fig. 4 of the present disclosure. Pawlowski simply fails to describe, teach or otherwise suggest such a combination.

Chen arguably discloses a very similar floor arrangement to that of Pawlowski, again having a primary use for an internal computer room or equivalent, for the storage of cables and power supplies. In this particular design, a floor support member includes a series of adjacent perforations or openings in the center of a panel onto which a floor tile is placed. This structure however, is still radically different than that of the claimed invention in that: a) the floor system is clearly designed merely for interior use and does not include paving bricks made from a weather impervious material; and b) the floor of Chen, like Pawlowski, is not designed to have more than one interlocking arrangement assumed by the upper brick members of the floor. That is to say, like Pawlowski, the upper floor tiles of this reference, once added, are fitted to assume one single relationship in relation to each other in which all of the tiles include seam lines extending parallel and

perpendicular in a grid-like pattern. The presently claimed invention, on the other hand, permits the paving bricks to assume multiple interlocking arrangements wherein seam lines would in fact be discontinuous. As a result, Chen and Pawlowski would actually teach against such an arrangement.

Applicant has amended Claim 13 in an effort to further clarify and particularly point out that which is regarded as the present invention. To that end, Claim 13 has been amended to more positively recite that each of the grate panels is made from a continuous series of perforations formed in a meshed configuration over the entirety of each said grate panel. Additionally, Claim 13 has been amended to recite that the plurality of paving bricks are disposed in relation with each other, the bottom surface of each said paving brick being set upon the top surface of the grate panels and in which the paving bricks are fabricated of a weather impervious material and in which the plurality of paving bricks can selectively assume a plurality of interlocking configurations on top of said grate panels in establishing said upper floor based on the relative positioning of said paving bricks in an interlocking configuration forming a plurality of discontinuous seam lines, wherein at least some of said seam lines terminate at a side wall of an interlocking paving brick.

Because these essential features are not present in the cited invention, there can be no *prima facie* obviousness rejection under the Statute Reconsideration is respectfully requested.

The remaining claims of the pending application have been rejections over various combinations of Pawlowski, Chen, Faulkner (U.S. Patent No. 5,363,614) and Focht (RE 20872). Applicant respectfully traverses these rejections.

Applicant has already noted that all essential elements of a claim must be present, either singly or in combination, to maintain a *prima facie* obviousness rejection under the Statute. With regard to amended Claim 13, it is believed this claim is patentably distinct from each of Chen and Pawlowski, for reasons described above. In summary, neither of these references disclose a load bearing subfloor for an exterior floor system that is defined by a plurality of grate panels, each of the

grate panels being defined entirely by a continuous of perforations and in which each of the plurality of paving bucks that include bottom surfaces laid upon the top of each of each of the grate panels and in which the plurality of paving bricks can selectively assume a plurality of interlocking relationships wherein each of the relationships include at least one discontinuous seam lines having ends that terminate at a side wall of an interlocking paving brick.

Neither Faulkner nor Focht teach or suggest any of the above features. While each of these patents have been cited for a number of features in the dependent claims, none of the prior art contains these essential features of amended Claim 13. Therefore, since none of these essential elements are present or suggested there can be no obviousness under the Statute. Reconsideration is respectfully requested.

Applicant has also added new Claim 20 which defines a method for creating an exterior raised load bearing floor system that includes the steps of affixing a plurality of pedestals to a non-level terrace, mounting a plurality of high-strength perforated grate panels onto the top surfaces of the pedestals to form a subfloor and selectively arranging a plurality of paving bricks in one of a varied number of interlocking arrangements onto the top surface of the subfloor wherein each of the paving bricks are made from a weather impervious material. Support is found repletely in the text of the specification for this claim as well as the drawings, Figs. 1-4, for example, and therefore it is believed that no new matter has been added. Examination and allowance of this claim is respectfully requested.

Serial No.: 10/768,996
Amendment Dated: April 26, 2004
Reply to Office Action of January 28, 2004

In summary, it is respectfully requested that the above-captioned patent application is now in an allowable condition and such allowance is earnestly solicited.

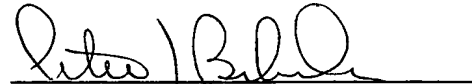
If the Examiner wishes to expedite disposition of the above-captioned patent application, he is invited to contact Applicant's representative at the telephone number below.

The Director is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0289.

Respectfully submitted,

WALL MARJAMA & BILINSKI LLP

By:

A handwritten signature in black ink, appearing to read 'Peter J. Bilinski', written over a horizontal line.

Peter J. Bilinski
Reg. No. 35,067

PJB/sca
Telephone: (315) 425-9000

Customer No.: 20874